

all the cases referred to, this court has been guided. The writ of error is accordingly

*Dismissed for want of jurisdiction.*

NOTE. — *Plainview v. Marshall*, error to the same court, was submitted at the same time and by the counsel who argued the preceding case. MR. JUSTICE MATTHEWS, who delivered the opinion of the court, remarked, that the two cases did not differ in any material respect, the value of the matter in dispute in each being less than \$5,000. For the same reasons the writ of error in this case was

*Dismissed.*

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PACE v. ALABAMA.

Section 4189 of the Code of Alabama, prohibiting a white person and a negro from living with each other in adultery or fornication, is not in conflict with the Constitution of the United States, although it prescribes penalties more severe than those to which the parties would be subject, were they of the same race and color.

ERROR to the Supreme Court of the State of Alabama.

Section 4184 of the Code of Alabama provides that "if any man and woman live together in adultery or fornication, each of them must, on the first conviction of the offence, be fined not less than one hundred dollars, and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than six months. On the second conviction for the offence, with the same person, the offender must be fined not less than three hundred dollars, and may be imprisoned in the county jail, or sentenced to hard labor for the county for not more than twelve months; and for a third or any subsequent conviction with the same person, must be imprisoned in the penitentiary, or sentenced to hard labor for the county for two years."

Section 4189 of the same code declares that "if any white person and any negro, or the descendant of any negro to the third generation, inclusive, though one ancestor of each generation was a white person, intermarry or live in adultery or fornication with each other, each of them must, on conviction, be imprisoned in the penitentiary or sentenced to hard labor for the county for not less than two nor more than seven years."